

STEPHEN F. JOHNSON, SBN 205244
MANNON, KING AND JOHNSON
200 North School Street, Suite 304
Post Office Box 419
Ukiah, California 95482
Telephone: (707) 468-9151
Facsimile: (707) 468-0284

Attorneys for Claimant Barnum Timber Company

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

REAL PROPERTY AND
IMPROVEMENTS IDENTIFIED BY
MENDOCINO COUNTY APN 051-
180-08, APN 051-180-09 and APN
051-180-10, et al.

Defendants.

Case No. CV 08-3080 EMC

CLAIMANT BARNUM TIMBER
COMPANY'S ANSWER TO
PLAINTIFF'S AMENDED
COMPLAINT

Claimant Barnum Timber Company ("Claimant") answers plaintiff's amended complaint ("Complaint") filed on July 29, 2008, as follows:

JURISDICTION

1. Paragraph 1 states a legal conclusion to which no response is required.
2. Paragraph 2 states a legal conclusion to which no response is required.

PARTIES

3. Claimant admits paragraph 3.
4. Claimant admits paragraph 4(a). Claimant lacks information and belief sufficient to enable it to answer the allegations stated in paragraphs 4 subsections (b) and (c), and on that ground denies them.

VENUE

5. Claimant admits paragraph 5.

INTRADISTRICT ASSIGNMENT

6. Claimant admits paragraph 6.

FACTS

7. Claimant incorporates its responses to paragraphs 1 through 6 as though fully set forth herein.

8. Claimant lacks information and belief sufficient to enable it to answer the allegations stated in paragraph 8, and on that ground denies them.

9. Claimant lacks information and belief sufficient to enable it to answer the allegations stated in paragraph 9, and on that ground denies them.

10. Claimant lacks information and belief sufficient to enable it to answer the allegations stated in paragraph 10, and on that ground denies them.

11. Claimant lacks information and belief sufficient to enable it to answer the allegations stated in paragraph 11, and on that ground denies them.

12. Claimant lacks information and belief sufficient to enable it to answer the allegations stated in paragraph 12, and on that ground denies them.

13. Claimant lacks information and belief sufficient to enable it to answer the allegations stated in paragraph 13, and on that ground denies them.

14. Claimant lacks information and belief sufficient to enable it to answer the allegations stated in paragraph 14, and on that ground denies them.

CLAIM FOR RELIEF

15. Claimant incorporates its responses to paragraphs 1 through 14 as though fully set forth herein.

16. Paragraph 16 states a legal conclusion to which no response is required.

17. Claimant denies that plaintiff is entitled to relief as it relates to its interest in the real property identified as Mendocino County parcel numbers APN 051-290-04,

1 APN 051-300-02, 051-310-01 and APN 051-320-01, and more particularly described
 2 in Exhibit A to the Complaint (the "Property"). Claimant lacks information and belief
 3 sufficient to enable it to answer the remaining allegations stated in paragraph 17, and
 4 therefore on that ground denies them.

5 **PRAYER FOR RELIEF**

6 18. Claimant lacks information and belief sufficient to enable it to answer the
 7 allegations stated in paragraph 18, and on that ground denies them.

8 **AFFIRMATIVE DEFENSES**

9 19. Claimant alleges the following affirmative defenses to the allegations set
 10 forth in the Complaint:

11 **FIRST AFFIRMATIVE DEFENSE**

12 20. Claimant is an "innocent owner" as the term is used in 18 U.S.C.A. §
 13 983(d), and the case law interpreting the same, therefore Claimant's interest in the
 14 Property is not subject to forfeiture.

15 **SECOND AFFIRMATIVE DEFENSE**

16 21. Forfeiture of Claimant's interest in the Property would constitute an
 17 unconstitutional taking of Claimant's vested and recorded interest in the Property.

18 **AFFIRMATIVE DEFENSE PRAYER FOR RELIEF**

19 22. WHEREFORE, Claimant requests that Claimant's interest in the Property
 20 not be forfeited under any forfeiture statute. Should plaintiff prevail on its action and
 21 acquire an interest in the Property, then plaintiff should take the Property subject to
 22 Claimant's interest in the Property.

23 /

24 /

25 /

26 /

27 /

1 Dated: August 18, 2008.

2 Respectfully submitted,
3 MANNON, KING AND JOHNSON
4

5
6 By: /s/ Stephen F. Johnson
7 Stephen F. Johnson

8 Attorneys for Claimant Barnum Timber
9 Company
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I am a citizen of the United States of America and am employed in the County of Mendocino, State of California, where this service occurs. I am over the age of eighteen years and not a party to the within action. My business address is Law Office of Mannon, King and Johnson, Post Office Box 419, Ukiah, California 95482.

On August 18, 2008 I served the attached foregoing document, namely,

- CLAIMANT BARNUM TIMBER COMPANY'S ANSWER TO PLAINTIFF'S AMENDED COMPLAINT
 - VERIFIED STATEMENT OF INTEREST IN REAL PROPERTY
- on the individual(s) listed below:

X (BY MAIL) I mailed the document(s) listed above, with prepaid postage thereon, by placing them in the U.S. mail at Ukiah, California.

____ (BY FAX) by transmitting the document(s) listed above via facsimile from
(707)468-0284

AUSA Susan B. Gray
United States Attorney's Office
Northern District of California
450 Golden Gate Avenue, 10th Fl, Box 36055
San Francisco, CA 954102

Courtesy copy via Fed Ex:
Honorable William H. Alsup
United States District Court
450 Golden Gate Ave., 16th Fl., Rm 1111
San Francisco, CA 94102

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed on August 18, 2008, in Ukiah, California.

/s/ Gretchen Anderson
Gretchen Anderson
Legal Assistant